

Notice of Allowability

Application No.

09/868,026

Applicant(s)

RIDET ET AL.

Examiner

Christopher J Nichols, Ph.D.

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10 November 2004.
2. ☒ The allowed claim(s) is/are 33-42.
3. ☒ The drawings filed on 11 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Status of Application, Amendments, and/or Claims

1. The Response and Amendment filed 10 November 2004 has been received and entered in full.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Withdrawn Objections And/Or Rejections

3. The Objection to claim 39 as set forth at pp. 2 ¶5 in the previous Office Action (19 July 2004) is hereby *withdrawn* in view of Applicant's amendments (10 November 2004).
4. The Rejection of claims **33-36** and **43** under 35 U.S.C. §102(b) as set forth at pp. 3-4 ¶6-9 in the previous Office Action (19 July 2004) is *withdrawn* in view of Applicant's amendments (10 November 2004).
5. The Rejection of claims **33-42** under 35 U.S.C. §103(a) as set forth at pp. 4-6 ¶10-18 in the previous Office Action (19 July 2004) is *withdrawn* in view of Applicant's amendments (10 November 2004).
6. All Objections and Rejections not herein set forth or maintained are hereby *withdrawn* and/or *moot*.

EXAMINER'S AMENDMENT

7. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR

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1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

8. In the claims:

Claims 1-32 (Cancelled)

Claim 33 (Previously Presented) A method of producing an essentially pure population of astrocytes which are essentially free of microglial cells, the method comprising:

- a) preparing a mixture of astrocytes and microglial cells by dissociation of tissue obtained by surgical resection from a patient, and directly introducing the prepared mixture of astrocytes and microglial cells to a culture vessel,
- b) incubating the prepared mixture of astrocytes and microglial cells from step a) under conditions enabling attachment of the astrocytes to the culture vessel, and
- c) removing cells which have not attached to the culture vessel at a time of about 48 hours from the introduction of the prepared mixture of astrocytes and microglial cells to the culture vessel.

Claim 34 (Previously Presented) The method according to claim 33, wherein the astrocytes are human astrocytes.

Claim 35 (Previously Presented) The method according to claim 34, wherein the human astrocytes are human adult astrocytes.

Claim 36 (Previously Presented) The method according to claim 33, wherein unattached cells are removed from the culture vessel by a change of culture media.

Claim 37 (Previously Presented) The method according to claim 33, further comprising a step d) of introducing a nucleic acid into the astrocytes.

Claim 38 (Previously Presented) The method according to claim 37, wherein the nucleic acid is introduced into the astrocytes with a viral vector.

Claim 39 (Previously Presented) The method according to claim 38, wherein the viral vector is selected from the group consisting of adenovirus, Herpes virus, Adeno-Associated Virus, retrovirus and vaccinia virus.

Claim 40 (Previously Presented) The method according to claim 39, wherein the viral vector is a replication defective adenoviral vector.

Claim 41 (Previously Presented) The method according to claim 37, wherein the nucleic acid is introduced into the astrocytes by calcium-phosphate precipitation, liposome-mediated transfection, cationic lipid transfection, or lipopolyamine-mediated transfection.

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Claim 42 (Previously Presented) The method according to claim 37, wherein the nucleic acid encodes a neuroactive substance.

Claim 43 (Cancelled)

9. Authorization for this examiner's amendment was given in a telephone interview with B.J. Sadoff on 16 December 2004.

Summary

10. Claims **33-42** are hereby allowed.

11. The Examiner acknowledges that acceptance of the above Examiner's Amendment does not mitigate in any way, shape, or form, Applicant's right to pursue additional subject matter in continuation, continuation-in-part, and/or divisional applications pursuant to 35 U.S.C. §120 and §121.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher James Nichols, Ph.D.** whose telephone number is **(571) 272-0889**. The examiner can normally be reached on Monday through Friday, 8:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Brenda Brumback** can be reached on **(571) 272-0961**.

The fax number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

CJN

December 16, 2004

Elizabet C. Kemmer